

comprises providing a needle having two articulating members

31. (currently amended) A method of obtaining a sample of tissue from the pleural cavity of a patient as defined in claim 27 ~~30~~ wherein said step of providing a needle comprises providing a needle having two articulating members with one articulating member having a knife edge formed thereon and the other articulating member having a brush edge formed thereon.

32. (canceled)

33. (canceled)

REMARKS

The Office Action dated July 6, 2004 had been read and carefully considered and the present amendment presented to amend the claims in accordance with the language allowed or indicated as allowable by the Examiner.

Claims 1-4 and 6 and 9 were rejected under 35 U.S.C. 102(b) as being anticipated by Rhum *et al.* Claims 27, 29 and 32 were rejected under 35 U.S.C. 102(b) as being anticipated by Ogirala. Claims 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Rhum *et al* as applied to claim 1. Claims 13, 16-23 and 26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rhum *et al* in view of Marini. Finally claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ogirala as applied to claim 27.

Claims 10-12, 14, 15, 24, 25, 31 and 33 were indicated as being allowable if rewritten in independent form to include all of the limitations of their base claims and any intervening claims. Applicant appreciates the indication of allowability of those claims.

Accordingly, Applicant has now amended all of the claims in the present application to be in accord with the claims that have been indicated as allowable. Specially, the limitation of claim 10, indicated as allowable, relating to "at least one of the articulating

members being a brush” has now been incorporated into claim 1 and it is, therefore submitted that claim 1 is now in allowable form. As such claims 2-6 are dependent upon claim 1 and are also therefore submitted to be allowable. Claim 10 has been canceled. Claim 12, also dependent upon claim 1, has been amended to make the language of that claim consistent with the cancellation of claim 10.

Claim 12 that was also considered to be allowable if rewritten in independent form has now been rewritten in independent form by combining all of the language of claim 1 into the additional limitations of claim 12.

Claim 13 has now been rewritten to include the limitations of claim 14, also considered to be allowable if rewritten in independent form, such that claim 13 is now in accord with the rewriting of claim 14 in independent form. With that amendment to claim 13, claim 14 has now been canceled.

Claim 15 was also indicated as being allowable if rewritten in independent form and, therefore, the amendments has been made to claim 15 so that it now has all of the limitations of the prior claim 13 while retaining the limitations of claim 15. Claims 16-21 have been amended to depend either directly or indirectly upon the claim 13 which, as indicated, has been amended to be in allowable form.

Claims 22-23 have been cancelled.

Claim 24 that was indicated as allowable if rewritten in independent form has now been so rewritten by incorporating all of the limitations of claim 13 into claim 24 while retaining the limitations of claim 24.

Claim 25 has been amended to depend from claim 24 in view of the amendments to claim 24.

The limitations of claim 28 relating to the presence of a brush edge formed on at least one articulating member has now been added to claim 27 and it is thus submitted that claim

27 is in allowable form. The remaining claims, that is, claims 29-31 are all now made dependent upon claim 27, and are therefore also now in allowable form.

As such with the foregoing amendments it is believed that all of the claims indicated by the Examiner as being allowable have now been rewritten or amended to be in accord with that allowable subject matter and an allowance of the present application is respectfully solicited. If there are any amendments that the Examiner finds are not in accord with the allowable subject matter, it is requested that the Examiner call the undersigned attorney so that the issues can be resolved expeditiously.

Respectfully submitted,



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